REMARKS/ARGUMENTS

The Applicant respectfully requests reconsideration of the present application in view of the above changes to the claims, and the following remarks, which are responsive to the Office Action mailed January 10, 2008.

I.   Status of the Claims

In the Office Action, Claims 1-42 were noted as pending in the application and were rejected. As a result of this response, Claims 6, 13, 20, 27, 34 and 41 have been canceled, Claims 1-5, 7-12, 14-19, 21-26, 28-33, 35-40 and 42 remain pending, and Claims 1, 7-9, 15, 21-23, 28-29, 35-37 and 42 have been amended in order to further clarify the claimed invention.

II.   Claim Rejections

a. 35 U.S.C. § 112

In the Office Action, Claims 6-13, 20-28, 34-37 and 41-42 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. (Office Action, page 2). In particular, the Office Action objects to the use of the phrase "and/or," stating that it renders the claim vague and indefinite. As noted above, Claims 6, 13, 20, 27, 34 and 41 have been canceled. The rejection of these claims is, therefore, moot. With regard to the remaining Claims 7-12, 21-26, 28, 35-37 and 42, as shown in the above listing of claims, these claims have been amended to replace the phrase "A, B and/or C" with "A, B, C, or a combination thereof." As a result, Applicant respectfully asserts that Claims 7-12, 21-26, 28, 35-37 and 42 are no longer vague or indefinite and respectfully requests that the rejection of these claims under 35 U.S.C. § 112, second paragraph, be withdrawn.

b. 35 U.S.C. § 102(e)

In the Office Action, Claims 1-42 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,014,631 to Teagarden ("*Teagarden*"). (Office Action, page 3). For at least the following reasons, Applicant respectfully requests that the rejection of Claims 1-42 under 35 U.S.C. § 102(e) be withdrawn.

i. Independent Claims 1, 7, 15, 21, 29 and 35

Applicant respectfully asserts that *Teagarden* does not teach or suggest each of the recitations of independent Claim 1, 7, 15, 21, 29 and 35. In particular, independent Claims 1, 7, 15, 21, 29 and 35, as amended, each recite, albeit in somewhat different language, "assigning the person/patient to one of a plurality of pools of people/patients based on the entered information *and one or more attributes of a professional services/healthcare provider qualified to advise/treat people/patients in respective pools*." Applicant respectfully asserts that *Teagarden* fails to teach or suggest at least this recitation of independent Claims 1, 7, 15, 21, 29 and 35.

Teagarden is directed toward an "interactive computer assisted method [that] reviews, and analyzes, a patient who needs one or more medications using a computer." (*Teagarden*, Abstract). The method of *Teagarden* includes "pre-selecting patients to obtain a preliminary set of patients eligible for the interactive computer assisted method responsive to first predetermined criteria, and filtering the preliminary set of patients to identify and form a secondary set of patients from the preliminary set of patients having a greater likelihood of benefiting from the interactive computer assisted method responsive to second predetermined criteria." (*Id.*). In describing the "pre-selection" and "selection" process, *Teagarden* discloses the following:

> In Step S20, patient pre-selection is performed, for example, retrospectively from medical claims in a disease management data base for adults only taking at least four maintenance medications and ranking in the top 3% of drug spenders over 18 years of age. Catastrophic patients with the following markers are optionally excluded or filtered in Step S22: AIDS, transplant, cancer, hemophilia, biotech. A patient list is generated at S24. In Step S26, the process determines whether the patient profile is acceptable, and if so, the patient profile is added to the patient list in Step S28. In Step S30, the complete list of patients and patient profiles is compiled. In Step S32, the process determines

whether an optional manual review of preliminary patient list is to be performed, and if so, in Step S34, the manual review is performed. In Step S36, the patient profiles are retrieved and reviewed. ... In Step S38, final patient selection is performed by the medication review system 400*d* and/or manually with the assistance of the medication review system 400*d*. For example, one of the participating clinical pharmacists optionally pre-screens the profiles obtained from the computerized selection to eliminate false opportunities.

(*Id*. at Col. 16, lines 1-25).

Based on the foregoing, *Teagarden* arguably discloses creating a first set of patients based on information about those patients, and then filtering that set based on additional information about the patients in order to create a second set of patients for which a computer assisted and/or implemented process may be used. *Teagarden* does not however, disclose defining any of the sets of patients based on one or more attributes of a professional services/healthcare provider qualified to advise/treat patients in respective sets. Accordingly, *Teagarden* does not teach or suggest "assigning the person/patient to one of a plurality of pools of people/patients based on the entered information *and one or more attributes of a professional services/healthcare provider qualified to advise/treat people/patients in respective pools*," as recited, albeit in somewhat different language, in each of independent Claims 1, 7, 15, 21, 29 and 35.

For at least the foregoing reasons, Applicant respectfully asserts that *Teagarden* does not anticipate independent Claims 1, 7, 15, 21, 29 and 35, and respectfully requests that the rejection of these claims under 35 U.S.C. § 102(e) be withdrawn.

ii. Dependent Claims 2-5, 8-12, 14, 16-19, 22-26, 28, 30-33, 36-40 and 42

Claims 2-5; 8-12 and 14; 16-19; 22-26 and 28; 30-33; and 36-40 and 42 depend, respectively, from independent Claims 1, 7, 15, 21, 29 and 35 and include all of the recitations of their base claims and any intervening claims plus their additional recitations that further distinguish the art applied in the rejection. Thus, for at least the reasons set forth above with respect to independent Claims 1, 7, 15, 21, 29 and 35, it is respectfully submitted that dependent

Claims 2-5, 8-12, 14, 16-19, 22-26, 28, 30-33, 36-40 and 42 are further patentable over *Teagarden* as such dependent claims now depend from allowable base claims.

III.   Conclusion

In light of the remarks above, Applicant respectfully submits that the application is in condition for allowance and respectfully requests that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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